

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

ELTON L. WILLIAMS 260920,)
)
Plaintiff,) Case No. 7:02CV00499
)
v.) OPINION AND ORDER
)
VIRGINIA DEPARTMENT OF CORRECTIONS, ET AL.,) By: James P. Jones
) Chief United States District Judge
)
Defendants.)

The pro se plaintiff, proceeding in forma pauperis in this § 1983 action, has requested the trial transcript for use on appeal. For the reasons set forth in this opinion, his motion will be denied.

If the plaintiff has the funds, he may make monetary arrangements with the court reporter for preparation of the transcript. *See Fed. R. App. P. 10(b)(4)*. A free transcript may be provided to an appellant if it is determined that the appeal presents a “substantial question.” 28 U.S.C.A. § 753(f) (West 1993). The appellant bears the burden of demonstrating substantiality. *See Maloney v. E.I. DuPont de Nemours & Co.*, 396 F.2d 939, 940 (D.C. Cir. 1967). A substantial question has been held to be one that is “reasonably debatable,” *Ortiz v. Greyhound Corp.*, 192 F. Supp. 903, 905 (D. Md. 1959), or one “where the law appears to be settled, but where the appellant

is able to show that his chances of changing the law on appeal are strong.” *Lee v. Habib*, 424 F.2d 891, 905 (D.C. Cir. 1970).

The appellant here has not demonstrated any substantial question on appeal. The facts determined at trial are not reviewable on appeal, if supported by substantial evidence. *See Vodrey v. Golden*, 864 F.2d 28, 30 n.4 (4th Cir. 1988). “Substantial evidence” is such evidence that a reasonable mind could accept as adequate even if a different conclusion might also be supported by the evidence. *See Gibraltar Sav. v. LDBrinkman Corp.*, 860 F.2d 1275, 1297 (5th Cir. 1988). Substantial evidence supports the verdict in this case.

For these reasons, it is **ORDERED** that the motion is **DENIED**.

ENTER: April 30, 2006

/s/ JAMES P. JONES
Chief United States District Judge